

By: Lucio

S.B. No. 1627

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of big cats and nonhuman primates;  
providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 822.116, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (b), a county or municipality subject to Subchapter F as provided by Section 822.152 may not adopt an ordinance or order pertaining to big cats or nonhuman primates that is inconsistent with Subchapter F.

SECTION 2. Chapter 822, Health and Safety Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. REGULATION OF BIG CATS AND NONHUMAN PRIMATES IN CERTAIN COUNTIES

Sec. 822.151. DEFINITIONS. In this subchapter:

(1) "Animal control authority" means a municipal or county animal control office with authority over the area in which a big cat or nonhuman primate is kept or the county sheriff in an area that does not have an animal control office.

(2) "Big cat" means:

(A) a cheetah;

(B) a cougar;

(C) a leopard;

(D) a lion;

1           (E) a jaguar;

2           (F) a tiger; or

3           (G) a hybrid of an animal listed in Paragraphs  
4 (A)-(F).

5           (3) "Circus" means an exhibitor holding a Class C  
6 license under the Animal Welfare Act (7 U.S.C. Section 2131 et  
7 seq.).

8           (4) "Commercial activity" means:

9           (A) an activity involving a big cat or nonhuman  
10 primate conducted by a person for profit; or

11           (B) the sale, trade, auction, lease, or loan of a  
12 big cat or nonhuman primate or a big cat's or nonhuman primate's  
13 body parts.

14           (5) "Nonhuman primate" includes:

15           (A) a baboon;

16           (B) a chimpanzee;

17           (C) a gorilla;

18           (D) an orangutan; or

19           (E) a hybrid of an animal listed in Paragraphs  
20 (A)-(D).

21           (6) "Nonprofit animal welfare organization" means a  
22 nonprofit organization that has as its purpose:

23           (A) the prevention of cruelty to animals; or

24           (B) the sheltering of, caring for, and providing  
25 homes for lost, stray, and abandoned animals.

26           (7) "Owner" means any person who owns, harbors, or has  
27 custody or control of a big cat or nonhuman primate.

1           (8) "Person" means an individual, partnership,  
2 corporation, trust, estate, joint stock company, foundation, or  
3 association of individuals.

4           (9) "Wildlife sanctuary" means a nonprofit  
5 organization that operates a place of refuge where abused,  
6 neglected, unwanted, impounded, abandoned, orphaned, or displaced  
7 animals are provided care for the lifetime of the animal.

8           Sec. 822.152. APPLICABILITY OF SUBCHAPTER. This subchapter  
9 applies to a person possessing a big cat or nonhuman primate in a  
10 county that has a population of at least 75,000.

11           Sec. 822.153. PROHIBITED ACTS. (a) Except as provided by  
12 Section 822.154, a person may not possess, sell, transfer, or breed  
13 a big cat or nonhuman primate.

14           (b) A person may not allow a member of the public to come in  
15 direct contact with or to be in proximity to, including for a  
16 photographic purpose, a big cat or nonhuman primate without  
17 ensuring there is sufficient distance between the animal and the  
18 public member and protective barriers to separate the animal from  
19 the public member.

20           Sec. 822.154. EXEMPTIONS. (a) Section 822.153(a) does not  
21 apply to:

22           (1) a county, municipality, agency of this state, or  
23 agency of the United States or an agent or official of a county,  
24 municipality, or agency acting in an official capacity;

25           (2) an institution accredited by the Association of  
26 Zoos and Aquariums;

27           (3) a related facility certified by the Association of

1 Zoos and Aquariums that is a participant in a species survival plan  
2 program for the breeding of species listed as threatened or  
3 endangered pursuant to the Endangered Species Act of 1973 (16  
4 U.S.C. Section 1533);

5 (4) a research facility, as defined by the Animal  
6 Welfare Act (7 U.S.C. Section 2132(e)), that is licensed by the  
7 secretary of the United States Department of Agriculture under that  
8 Act;

9 (5) a wildlife sanctuary that:

10 (A) does not conduct commercial activity  
11 involving big cats or nonhuman primates;

12 (B) does not use big cats or nonhuman primates  
13 for entertainment purposes or in a traveling exhibit; and

14 (C) does not breed big cats or nonhuman primates;

15 (6) a nonprofit animal welfare organization,  
16 including a humane society or shelter, that temporarily houses a  
17 big cat or nonhuman primate seized under Section 822.156 or on the  
18 written request of an animal control authority or a law enforcement  
19 agency acting under the authority of this subchapter;

20 (7) a licensed veterinarian who is providing treatment  
21 to a big cat or nonhuman primate;

22 (8) a law enforcement officer, including an animal  
23 control officer or a county sheriff, who has possession of a big cat  
24 or nonhuman primate for law enforcement purposes;

25 (9) a circus that:

26 (A) is temporarily in this state for less than 90  
27 days in any year; and

1           (B) regularly conducts performances featuring  
2 live big cats or nonhuman primates and multiple trained human  
3 entertainers, including clowns and acrobats;

4           (10) a big cat or nonhuman primate owned by and in the  
5 possession, custody, or control of a college or university solely  
6 as a mascot for the college or university;

7           (11) a person temporarily transporting a legally owned  
8 big cat or nonhuman primate in interstate commerce through this  
9 state if:

10                   (A) the transit time is not more than 96 hours;

11                   (B) the big cat or nonhuman primate is not  
12 exhibited;

13                   (C) the big cat or nonhuman primate is maintained  
14 at all times in a species-appropriate cage or other travel  
15 container;

16                   (D) the owner of the big cat or nonhuman primate,  
17 or a designated carrier or intermediate handler of the animal,  
18 complies with all transportation standards that apply to that  
19 animal under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.);  
20 and

21                   (E) the owner of the big cat or nonhuman primate,  
22 or a designated carrier or intermediate handler of the animal,  
23 complies with all other applicable state, local, or federal laws,  
24 including laws requiring a veterinary certificate or other permit;  
25 or

26           (12) a person who lawfully possesses a big cat or  
27 nonhuman primate before September 1, 2013, provided that:

1           (A) the person complies with the applicable  
2 requirements under Subchapter E; and

3           (B) the person does not acquire, by any means,  
4 including purchase, donation, or breeding, an additional big cat or  
5 nonhuman primate after September 1, 2013.

6           (b) Section 822.153(b) does not prohibit the owner of a big  
7 cat or nonhuman primate from allowing an employee of the owner or a  
8 licensed veterinarian or other person providing care to the animal  
9 to come in direct contact with or to be in proximity to the animal.

10          Sec. 822.155. OFFENSE; PENALTY. (a) A person commits an  
11 offense if the person violates Section 822.153. Each animal with  
12 respect to which there is a violation and each day that a violation  
13 continues is a separate offense.

14          (b) An offense under this section is a Class A misdemeanor.

15          Sec. 822.156. SEIZURE OF BIG CAT OR NONHUMAN PRIMATE. (a)  
16 A justice court, county court, or municipal court shall order the  
17 animal control authority to seize a big cat or nonhuman primate and  
18 shall issue a warrant authorizing the seizure:

19                 (1) on the sworn complaint of any person, including  
20 the county attorney, the city attorney, an animal control officer,  
21 or a peace officer, that a big cat or nonhuman primate is possessed,  
22 sold, transferred, or bred in violation of this subchapter; and

23                 (2) on a showing of probable cause to believe that the  
24 big cat or nonhuman primate is possessed, sold, transferred, or  
25 bred in violation of this subchapter as stated in the complaint.

26                 (b) The animal control authority shall seize the big cat or  
27 nonhuman primate and shall provide for the impoundment of the big

1 cat or nonhuman primate in secure and humane conditions until the  
2 court orders the disposition of the big cat or nonhuman primate.

3 (c) A big cat or nonhuman primate that has been seized and  
4 impounded shall be kept in the custody of a zoo or other institution  
5 accredited by the Association of Zoos and Aquariums, a wildlife  
6 sanctuary, or a nonprofit animal welfare organization described by  
7 Section 822.154(6) until a judicial determination regarding the  
8 disposition of the big cat or nonhuman primate is made.

9 Sec. 822.157. PETITION FOR POSTING OF SECURITY. (a) A  
10 person having custody of the big cat or nonhuman primate under  
11 Section 822.156(c) may file a petition with the court that ordered  
12 the seizure and impoundment of the animal requesting that the  
13 person from whom the big cat or nonhuman primate was seized or the  
14 owner of the big cat or nonhuman primate be ordered to post  
15 security.

16 (b) The petitioner shall serve a copy of the petition on:  
17 (1) the owner of the big cat or nonhuman primate;  
18 (2) the animal control authority or other law  
19 enforcement entity that seized the big cat or nonhuman primate; and  
20 (3) any interested person who may have a pecuniary  
21 interest in the animal that is the subject of the petition.

22 (c) A court shall set a hearing on the petition to take place  
23 not later than the fifth business day after the date the petition is  
24 filed.

25 (d) The amount of the security shall be determined by the  
26 court after taking into consideration:

27 (1) all of the facts and circumstances of the case,

1 including the recommendation of the impounding organization having  
2 custody of the seized big cat or nonhuman primate; and

3 (2) the cost of caring for the seized big cat or  
4 nonhuman primate.

5 (e) The amount of the security ordered by a court must be  
6 sufficient to secure payment of all reasonable expenses, including  
7 the estimated cost for medical care and boarding, expected to be  
8 incurred by the impounding organization having custody while caring  
9 for the big cat or nonhuman primate pending a final disposition of  
10 the animal.

11 (f) If the court orders the posting of security, the  
12 security must be posted with the clerk of the court not later than  
13 the fifth business day after the date of the hearing.

14 (g) If a person fails to post the court-ordered security,  
15 the court may consider the big cat or nonhuman primate to be  
16 forfeited by operation of law, and the impounding organization  
17 having custody of the animal shall have legal custody and control  
18 over the animal.

19 (h) In lieu of posting the court-ordered security, a person  
20 may voluntarily forfeit the big cat or nonhuman primate to a zoo or  
21 other institution accredited by the Association of Zoos and  
22 Aquariums or a wildlife sanctuary.

23 (i) Voluntary forfeiture under Subsection (h) has no effect  
24 on criminal charges brought under this subchapter.

25 (j) If the court-ordered security is posted in accordance  
26 with this section, on application by the impounding organization  
27 having custody of the big cat or nonhuman primate, the court shall

1 order reimbursement of the actual costs incurred by the  
2 organization in caring for the animal, to be paid from the posted  
3 security.

4 (k) On final judicial determination of the disposition of  
5 the seized big cat or nonhuman primate, the person who posted the  
6 security is entitled to a refund of any amount not ordered to be  
7 paid to the impounding organization having custody of the animal.

8 Sec. 822.158. FORFEITURE OF BIG CAT OR NONHUMAN PRIMATE. A  
9 big cat or nonhuman primate that is considered forfeited by  
10 judicial determination or is voluntarily forfeited:

11 (1) shall be placed by the animal control authority in  
12 the custody of a zoo or other institution accredited by the  
13 Association of Zoos and Aquariums or a wildlife sanctuary; or

14 (2) may be humanely euthanized in compliance with  
15 state and federal law if an animal control authority, after making a  
16 reasonable effort, is unable to find an institution that is willing  
17 and able to take custody of a forfeited big cat or nonhuman primate.

18 Sec. 822.159. INJUNCTION. A person who is directly harmed  
19 or threatened with harm by a violation of this subchapter or a  
20 failure to enforce this subchapter may sue an owner of a big cat or  
21 nonhuman primate to enjoin a violation of this subchapter or to  
22 enforce this subchapter.

23 Sec. 822.160. EFFECT OF SUBCHAPTER ON OTHER LAW. (a) This  
24 subchapter does not prevent a county or municipality from adopting  
25 or enforcing an ordinance, order, rule, or other legal requirement  
26 that places additional restrictions on the possession, sale,  
27 transfer, or breeding of big cats or nonhuman primates.

1           (b) This subchapter does not affect the applicability of any  
2 other law, rule, order, ordinance, or other legal requirement of  
3 this state or a political subdivision of this state.

4           SECTION 3. Section 822.153, Health and Safety Code, as  
5 added by this Act, applies only to an offense committed on or after  
6 the effective date of this Act. An offense committed before the  
7 effective date of this Act is governed by the law in effect on the  
8 date the offense was committed, and the former law is continued in  
9 effect for that purpose. For purposes of this section, an offense  
10 was committed before the effective date of this Act if any element  
11 of the offense occurred before that date.

12           SECTION 4. This Act takes effect September 1, 2013.